

of any affected tribe or group submitting such request to both Congressional Committees through the Secretary, and any such request shall be subject to the approval of both Congressional Committees.

**§ 87.7 Submittal of proposed legislation by Secretary.**

(a) Within thirty (30) calendar days after the date of a resolution by either House disapproving a plan, the Secretary shall simultaneously submit proposed legislation authorizing the use or distribution of the funds, together with a report thereon, to the Chairmen of both Congressional Committees, at the same time sending copies of the proposed legislation to the governing body of the affected tribe or group. Such proposed legislation shall be developed on the basis of further consultation with the affected tribe or group.

(b) In any instance in which the Secretary determines that circumstances are not conducive to the preparation and submission of a plan, he shall, after appropriate consultation with the affected tribe or group, submit proposed legislation within the 180-day period to both Congressional Committee simultaneously.

**§ 87.8 Enrollment aspects of plans.**

An approved plan that includes provisions for enrollment requiring formal adoption of enrollment rules and regulations shall be implemented through the publication of such rules and regulations in the FEDERAL REGISTER. Persons not members of organized or recognized tribes and who are not citizens of the United States shall not, unless otherwise provided by Congress, be eligible to participate in the use or distribution of judgment funds, excepting heirs or legatees of deceased individual beneficiaries.

**§ 87.9 Programing aspects of plans.**

In assessing any tribal programing proposal the Secretary shall consider all pertinent factors, including the following: the percentage of tribal members residing on or near the subject reservation, including former reservation areas in Oklahoma, or Alaska Native villages; the formal educational level

and the general level of social and economic adjustment of such reservation residents; the nature of recent programing affecting the subject tribe or group and particularly the reservation residents; the needs and aspirations of any local Indian communities or districts within the reservation and the nature of organization of such local entities; the feasibility of the participation of tribal members not in residence on the reservation; the availability of funds for programing purposes derived from sources other than the subject judgment; and all other pertinent social and economic data developed to support any proposed program.

**§ 87.10 Per capita payment aspects of plans and protection of funds accruing to minors, legal incompetents and deceased beneficiaries.**

(a) The per capita shares of living competent adults shall be paid directly to them. The shares of minors, legal incompetents and deceased individual beneficiaries, enhanced by investment earnings, shall be held in individual Indian money (IIM) accounts unless otherwise provided as set out in this section. While held in IIM accounts, said shares shall be invested pursuant to 25 U.S.C. 162a and shall be the property of the minors or legal incompetents or the estates of the deceased individual beneficiaries to whom the per capita payments were made.

(b)(1) Unless otherwise provided in paragraph (b)(2) of this section, minors' per capita shares, until the minors attain the age of 18 years, shall be retained in individually segregated IIM accounts and handled as provided in § 115.4 of this chapter. Should it be determined that the funds are to be invested pursuant to a trust, minors who will have reached the age of 18 years within six months after the establishment of the trust shall have their funds retained at interest in IIM accounts and paid to them upon attaining their majority.

(2) A private trust for the minors' per capita shares may be established subject to the approval of the tribal governing body and the Secretary on the following conditions:

(i) The tribal governing body specifically requests the establishment of

such trust, and the trust provides for segregated amounts to each individual minor, based on his per capita share, and

(ii) The trust agreement specifically provides that the investment policy to be followed is that of preserving the trust corpus and of obtaining the highest interest rates current money markets can safely provide. The trust agreement must further provide that maturity dates of investments cannot exceed the period of the trust and that only the following types of investment shall be made: United States Treasury obligations; Federal agency obligations; repurchase/resell agreements; United States Treasury bills; Bankers' acceptance, provided the assets of the issuing bank exceed \$1 billion or the issuing bank pledges full collateral; Certificates of deposit, provided the assets of the issuing bank exceed \$1 billion or the issuing bank pledges full collateral; Commercial paper, provided it is rated prime-2 by Moody or A-2 by Standard and Poor or is obligation of a company with outstanding unsecured debt rated Aa by Standard and Poor.

(c) The per capita shares of legal incompetents shall be held in IIM accounts and administered pursuant to the provisions of §115.5 of this chapter.

(d) The shares of deceased individual beneficiaries, plus all interest and investment income accruing thereto, shall be paid to their heirs and legatees upon their determination as provided in 43 CFR part 4, subpart D.

(e) All per capita shares, including all interest and investment income accruing thereto, while they are held in trust under the provisions of this section, shall be exempt from Federal and State income taxes and shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act, as amended.

(f) All per capita shares or portions thereof, including all interest and investment income accruing thereto, which are not paid out but which remain unclaimed with the Federal Government shall be maintained separately and be enhanced by investment, and shall, unless otherwise provided in an effective plan or in enabling legislation, be subject to the provisions of the

Act of September 22, 1961, 75 Stat. 584. No per capita share or portion thereof shall be transferred to the U.S. Treasury as "Monies Belonging to Individuals Whose Whereabouts are Unknown."

[41 FR 48735, Nov. 5, 1976. Redesignated at 47 FR 13327, Mar. 30, 1982]

#### **§ 87.11 Investment of judgment funds.**

As soon as possible after the appropriation of judgment funds and pending approval of a plan or the enactment of legislation authorizing the use or distribution of the funds, the Commissioner shall invest such funds pursuant to 25 U.S.C. 162a. Investments of judgment funds and of investment income therefrom will continue to be made by the Commissioner after the approval of a plan or enactment of use or distribution legislation to the extent funds remain available for investment under such plan or legislation, and provided that thereafter investments of judgment funds made available for tribal use are not undertaken by the tribe pursuant to authorizing law. Invested judgment funds, including investment income therefrom, shall be withdrawn from investment only as currently needed under approved plans or legislation authorizing the use or distribution of such funds.

#### **§ 87.12 Insuring the proper performance of approved plans.**

A timetable prepared in cooperation with the tribal governing body shall be included in the plan submitted by the Secretary for the implementation of all programing and enrollment aspects of a plan. At any time within one calendar year after the approval date of a plan, the Area Director shall report to the Commissioner on the status of the implementation of the plan, including all enrollment and programing aspects, and thenceforth shall report to the Commissioner on an annual basis regarding any remaining or unfulfilled aspects of a plan. The Area Director shall include in his first and all subsequent annual reports a statement regarding the maintenance of the timetable, a full accounting of any per capita distribution, and the expenditure of